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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JENNIFER PURCELL, Individually
and On Behalf of All Others Similarly
Situating,

Plaintiff,

v.

SPOKEO, INC. and DOE
DEFENDANTS 1-10,

Defendants.

Case No.: 2:11-CV-06003-ODW-AGR X

CLASS ACTION

**FIRST AMENDED CLASS
ACTION COMPLAINT FOR
VIOLATION OF THE FAIR
CREDIT REPORTING ACT, 15
U.S.C. §1681 *et seq.*; UNJUST
ENRICHMENT; THE UNIFORM
DECEPTIVE TRADE PRACTICES
ACT, 815 ILCS §510/1; AND
DECLARATORY RELIEF**

JURY TRIAL DEMANDED

Plaintiff Jennifer Purcell, individually and on behalf of all others similarly situated, upon both personal knowledge and information and belief, and following investigation by counsel, allege the following against Defendant, Spokeo, Inc. ("Spokeo" or "Defendant") and Doe Defendants 1-20:

INTRODUCTION

1. This case seeks relief for Plaintiff and a Class of similarly situated consumers whose personal information has been gathered, assembled, and evaluated

1 by Spokeo for the purpose of marketing, publishing, distributing, and/or selling such
2 information to third-parties.

3 2. Unbeknownst to Plaintiff and other Class members at relevant times,
4 Spokeo assembles, evaluates, markets, publishes, distributes, and/or sells access to
5 Plaintiff and other Class members' personal information through its website,
6 Spokeo.com, and continues to do so. Yet, information listed on Spokeo's website
7 about Plaintiff and other Class members is false and incorrect.

8 3. Plaintiff seeks declaratory and injunctive relief, restitution and damages
9 for herself and other Class members who have had their personal information
10 assembled, evaluated, marketed, published, distributed, and/or sold to third-parties, in
11 violation of the Fair Credit Reporting Act, 15 U.S.C. §1684 *et seq.* ("FCRA"), the
12 law of unjust enrichment, and the Illinois Uniform Deceptive Trade Practices Act,
13 815 ILCS §510/1 ("IDTPA").

14 **JURISDICTION, VENUE AND PARTIES**

15 4. Plaintiff, Jennifer Purcell, is an individual and a citizen of the State of
16 Illinois, where Plaintiff resides and maintains her personal and business life and
17 career.

18 5. Spokeo has its principal place of business in and is a citizen of the State
19 of California.

20 6. Doe Defendants 1-20 are officers, principals, agents, managers, and
21 subsidiaries of Defendant, and/or other persons or entities sued by fictitious names
22 who authorized, directed or otherwise exerted operational control over, or who
23 assisted to perpetrate, the unlawful conduct alleged herein, or who were or are likely
24 to be unjustly enriched by the Spokeo's alleged misconduct, as set forth below. The
25 allegations herein with respect to Spokeo are hereby expressly alleged by reference
26 against Does 1-20. If appropriate, and/or pursuant to discovery Plaintiffs shall amend
27 the Complaint to name and seek relief against Does 1-20.

28 7. The Court has original jurisdiction, *inter alia*, per 28 U.S.C. § 1331, and

1 supplemental jurisdiction over state law claims pursuant to 28 U.S.C. § 1367, which
2 arise out of the same nucleus of operative facts as Plaintiffs' causes of action pursuant
3 to federal law.

4 8. Venue is proper before the Court under 28 U.S.C. § 1391(b)(2) because
5 a substantial part of the events or omissions at issue occurred in this judicial District.
6 Alternatively, venue is proper before the Court under 28 U.S.C. § 1391(b)(1) and 28
7 U.S.C. § 1391(c) because Spokeo resides in this judicial District and is subject to
8 personal jurisdiction in this judicial District.

9 **FACTUAL ALLEGATIONS**

10 9. Spokeo collects and assembles personal information about United States
11 residents and then evaluates, markets, publishes, distributes, and/or sells the
12 information that it gathers to employers, consumers and virtually anyone else.
13 Plaintiff and other Class members' personal information, as described below, is
14 currently viewable on Spokeo's website, Spokeo.com, (herein, their "profiles,"
15 "Spokeo profiles," "consumer reports," or "reports" as collected and assembled by
16 Spokeo) and contains information that is false and incorrect.

17 10. On its website, Spokeo has published at least one personal information
18 profile for Plaintiff and each member of the Class. Using Spokeo.com, consumers,
19 employers and virtually anyone can view Spokeo personal information or reports
20 about Plaintiff and the Class, for free, and in substantial part by choosing for-pay
21 options.

22 11. Spokeo purportedly collects this personal information about Plaintiff and
23 other Class members from dozens of sources but does not specify the exact source of
24 any information posted on Plaintiff or other Class members' profiles.

25 12. Spokeo's profiles provide information about consumers such as their
26 address, phone number, sex, relationship status, a street view image of the
27 consumer's property, and income level or home or property value which purports to
28 be an estimated home value and/or wealth estimate.

1 13. This information is available to employers, consumers, and third-parties,
2 and Spokeo does not include and/or has not included, with profile displays of
3 personal information of Plaintiff and the Class, proper disclaimers regarding the
4 accuracy of such information, the proper use of such information by third-parties, or
5 other relevant FCRA disclosures.

6 14. Spokeo as part of a membership subscription, invites viewers to
7 purchase and access in depth profiles, about Plaintiff and other members of the Class,
8 which purport to include a variety of personal information, including, for example,
9 level of education, credit and wealth estimates, “economic health,” religious and
10 political affiliations, date of birth, languages spoken, and home purchase price and
11 date. Spokeo itself explains that “specific ‘information about mortgage, income, and
12 investments’... are offered as part of the business premium product.”
13 <http://www.spokeo.com/blog/category/spokeo-in-the-news/>.

14 15. Spokeo posts personal information on consumer profiles under subject
15 headings including but not limited to: “Basic Profile,” “Household,” “Photos &
16 Profiles,” “Wealth,” “Lifestyle & Interests,” and “Neighborhood.” Plaintiff’s profile
17 information available for purchase on Spokeo.com makes statements about her
18 economic health and wealth level.

19 16. While much of the information used to form these profiles comes from
20 public records, Spokeo collects this personal information from sources, many of
21 which are difficult to find, using processes and techniques that are unavailable to
22 consumers, and creates a unique profile which is far different, and far more than a
23 “white pages.” In fact, Spokeo reorganizes data obtained from other sources, makes
24 evaluations and conclusions about Plaintiff and other Class members not included in
25 the original source, and develops original content.

26 17. At relevant times, Spokeo has also assembled, evaluated, marketed,
27 published, distributed and/or sold, via its website, individual profiles (including
28 profiles for a fee) containing inaccurate information about Plaintiff and other

1 members of the Class, inclusive of their purported economic status, income, and
2 property ownership or the value thereof. For example, Plaintiff's Spokeo profile lists
3 an incorrect address, phone number, and projected home value or wealth estimate.
4 During relevant times, moreover, inaccuracies are and/or were included on Plaintiff's
5 paid Spokeo profile including for example stating that she is fifty years old, has
6 children, is married, is a Republican, is only college educated and is a Protestant; in
7 addition to other inaccuracies, none of these statements is true.

8 18. Despite a hollow, inadequate disclaimer by Spokeo (which Spokeo only
9 displays after a Spokeo.com user sees a consumer's inaccurate profile information, or
10 which is not displayed when or before Spokeo permits third-party access to profile
11 content), Plaintiff and other Class members profiles posted on Spokeo's website are
12 used in large part by third-parties for employment purposes. Spokeo President and
13 co-founder Harrison Tang himself admits that "his site streamlines the process of
14 finding information about prospective employees for potential employers and job
15 recruiters." "FTC To Probe Spokeo Data Broker Over Abuse of Privacy,"
16 [http://www.networkworld.com/community/blog/ftc-probe-spokeo-data-broker-over-](http://www.networkworld.com/community/blog/ftc-probe-spokeo-data-broker-over-abuse-priv)
17 [abuse-priv](http://www.networkworld.com/community/blog/ftc-probe-spokeo-data-broker-over-abuse-priv) (last visited July 29, 2010). In fact, during the relevant time period,
18 Spokeo awarded a "special gift" to a Spokeo member who used Spokeo's website "to
19 look up people who are potential employers/employees." *News Flash*,
20 <http://www.spokeo.com/blog/category/announcements> (last visited July 16, 2010).

21 19. Spokeo "has also marketed itself as a service for conducting background
22 checks to aid law enforcement agencies or HR recruiters."
23 [http://www.networkworld.com/community/blog/ftc-probe-spokeo-data-broker-over-](http://www.networkworld.com/community/blog/ftc-probe-spokeo-data-broker-over-abuse-priv)
24 [abuse-priv](http://www.networkworld.com/community/blog/ftc-probe-spokeo-data-broker-over-abuse-priv) (last visited July 29, 2010).

25 20. Spokeo knows and/or reasonably should expect that its reports are used
26 for employment-related, collection or other purposes governed by the FCRA.

27 ***Consumers Have Been Harmed***

28 21. Pursuant to Spokeo's ongoing business practice, it did not inform

1 Plaintiff and other Class members when it assembled, evaluated, marketed, published,
2 distributed and/or sold Plaintiff and other Class member's personal information.

3 22. Plaintiff and many other consumers have had false or misleading
4 information published, provided and/or sold by Spokeo as profiles or reports
5 purporting to provide their above-described personal information, including to third-
6 parties who have not agreed to or seen any FCRA disclaimers.

7 23. Spokeo President and co-founder admits that it is possible to reduce the
8 number of inaccuracies on Spokeo.com. He claims "[t]here are ways for us to
9 improve information inaccuracies. If you aggregate more pulled sources, you can do
10 an algorithm to improve the inaccuracies." [http://newsblogs.chicagotribune.com/the-](http://newsblogs.chicagotribune.com/the-problem-solver/2010/05/should-i-be-worried-about-spokeocom.html)
11 [problem-solver/2010/05/should-i-be-worried-about-spokeocom.html](http://newsblogs.chicagotribune.com/the-problem-solver/2010/05/should-i-be-worried-about-spokeocom.html) (last visited July
12 29, 2010). Yet, Spokeo continues to market, publish, distribute, and/or sell inaccurate
13 information about Plaintiff and other Class members through its website.

14 24. This inaccurate information about Plaintiff and other Class members,
15 marketed, published, distributed and/or sold on Spokeo.com, is accessed widely and
16 often – estimates have tracked traffic to Spokeo's website at up to more than 100,000
17 times per day, and alternatively almost 500,000 times per day.
18 <http://www.dnscoop.com/> (last visited July 29, 2010);
19 <http://www.freewebsitereport.org/www.spokeo.com> (last visited August 15, 2011).
20 In a single 30-day snapshot in 2010 alone, Spokeo.com had approximately 5,402,000
21 visits, <http://www.trafficestimate.com/spokeo.com> (last visited July 29, 2010), which
22 compares similarly with more recent estimates. One recent summary of activity on
23 Spokeo.com shows 16.09 million page views in a single month. *Id.*

24 25. Approximately 736 other websites have links to Spokeo.com which
25 makes Plaintiff and other Class members' inaccurate profiles easily accessible to
26 scores of viewers. *Id.* Spokeo also employs and is seeking to expand a network of
27 sales and marketing affiliates to help it advertise, online, and recover revenues from,
28 the marketing and sale of profiles including inaccurate personal information about

1 Plaintiff and other members of the Class.

2 26. Defendant allows the many viewers of its website to see Plaintiff and
3 other Class members' profiles without obtaining any certification from said third-
4 parties stating the purposes for which these third-parties are purchasing the profiles.

5 27. For a consumer to request removal of his or her profile from
6 Spokeo.com, Spokeo requires the consumer to furnish his or her email address and/or
7 additional information to Spokeo, and consumers have complained that the removal
8 process was unsuccessful, arduous, and required the transmittal of additional personal
9 information to Spokeo, or resulted in the revision, rather than the removal of one's
10 profile so as to *include* the personal information provided by the consumer to Spokeo
11 solely for purposes of *removing* the profile from Spokeo.com.
12 [http://yellowstaressentials.wordpress.com/2010/03/30/privacy-alert-spokeo-com-has-](http://yellowstaressentials.wordpress.com/2010/03/30/privacy-alert-spokeo-com-has-your-information/)
13 [your-information/](http://yellowstaressentials.wordpress.com/2010/03/30/privacy-alert-spokeo-com-has-your-information/) (last visited September 2, 2010);
14 <http://www.facebook.com/pages/NO-MORE-SPOKEO/113159098694287> (last
15 visited September 2, 2010). For example, after a consumer attempts to remove his or
16 her profile, "Spokeo now knows which 'John Smith' is attached to
17 john.smith@randomemail.com," and Spokeo then attaches this additional information
18 to a revised profile. *Id.*

19 28. Many consumers, including Plaintiff and the Class, unknowingly had
20 their profiles listed on Spokeo.com and were not given the opportunity to
21 meaningfully consent to Spokeo's marketing, publication and/or sale of their personal
22 information, including inaccurate, misleading and false information.

23 29. Spokeo's website offers, for the world to view or buy, a host of false,
24 misleading and inaccurate information about Plaintiff, including, for example: during
25 relevant times Plaintiff's published Spokeo.com profile seemingly purports or
26 purported that she is fifty years old, has children, is married, is a Republican, is only
27 college educated and is a Protestant, which, in addition to other inaccuracies, are not
28 true.

1 30. Moreover, Spokeo does not allow Plaintiff or other Class members to
2 view their own complete respective profiles (*see* ¶¶ 14-17) or to verify the accuracy
3 of information contained in their profiles on Spokeo.com without paying a
4 subscription fee. Spokeo has required, and as a practice continues to require, Plaintiff
5 and other members of the Class to purchase their own Spokeo profiles in order to
6 view all information that Spokeo assembles, evaluates, markets, publishes, distributes
7 and/or sells about them.

8 31. Plaintiff requested, in or around April 13, 2011 for example, a copy of
9 all files, reports or profiles that Spokeo maintains about her, a list of the sources used
10 to create such information, and the identities of any recipients of her profiles. Spokeo
11 did not oblige or honor this request, and indeed, does not honor such requests, and
12 does not offer or make available such information to consumers (except that it allows
13 consumers to pay to see their own profiles).

14 32. Through the actions described above, Spokeo has damaged and is likely
15 to damage consumers, including Plaintiff and other Class members.

16 33. Due to Spokeo's herein-described conduct, Plaintiff and the Class are
17 entitled to commensurate declaratory and injunctive relief, plus appropriate statutory
18 damages.

19 34. Without their knowledge and without receiving notice from Spokeo
20 when their personal information is accessed or purchased, Plaintiff and other Class
21 members' personal information has been and continues to be freely subject to lurking
22 employers (potential and actual), bosses, business colleagues, creditors, insurers,
23 service providers, dating partners, friends and foes at large.

24 **CLASS ACTION ALLEGATIONS**

25 35. Plaintiff brings this action individually and as a class action pursuant to
26 Federal Rule of Civil Procedure 23 on behalf of the following Classes and Subclass
27 of similarly situated individuals:
28

REPORT CLASS:

All persons whose personal information Spokeo assembled, evaluated, marketed, published, distributed and/or sold on Spokeo.com at any time between five years preceding the filing of this action and the date of trial.

REPORT SUBCLASS:

All persons in the State of Illinois whose personal information Spokeo assembled, evaluated, marketed, published, distributed and/or sold on Spokeo.com at any time between three years preceding the filing of this action and the date of trial.

REQUEST CLASS:

All persons who requested, from Spokeo, disclosure of information in their profile available for purchase on Spokeo.com, any sources of their profile, and/or the identification of any person who purchased their profile, at any time between five years preceding the filing of this lawsuit and the date of trial.¹

Excluded from the Class are the Court, Plaintiff's Counsel, and Spokeo, its officers and directors, family and legal representatives, heirs, successors, or assigns and any entity in which Spokeo has or had a controlling interest.

36. Plaintiff reserves the right to amend or modify the Class definitions in connection with her motion for class certification and/or the result of discovery.

37. The Class is so numerous that joinder of all members is impracticable. While the exact number of the Class members is unknown to Plaintiff at this time, such information can be easily ascertained through Spokeo's records.

38. Plaintiff will fairly and adequately represent and protect the interests of the members of the Class and has retained counsel competent and experienced in complex class actions. Plaintiff has no interest antagonistic to those of the Class.

39. Common questions of law or fact exist as to all members of the Class

¹ Unless otherwise noted, references to the "Class" are to the Classes and Subclass defined above.

1 and predominate over questions affecting only individual Class members, including,
2 for example:

- 3 a. Whether Spokeo is a “consumer reporting agency” pursuant to
4 the FCRA;
- 5 b. Whether Spokeo is a “nationwide specialty consumer reporting
6 agency” pursuant to the FCRA;
- 7 c. Whether Spokeo’s conduct violates the FCRA as set forth below;
- 8 d. Whether Spokeo was obligated to provide Plaintiff and other
9 members of the Request Class with a copy of their consumer
10 reports in the manner required by the FCRA;
- 11 e. Whether Plaintiff and other Class members are entitled to
12 injunctive relief as set forth herein.
- 13 f. Whether Plaintiff and other Class members are entitled to
14 statutory damages under the FCRA; and
- 15 g. Whether Plaintiff and other Class members are entitled to
16 restitution.

17 40. Plaintiff’s claims are typical of the claims of other Class members. The
18 defenses, if any, that will be asserted against Plaintiff’s claims are likely to be typical
19 of the defenses that will be asserted, if any, against other Class member’s claims.

20 41. Spokeo has and will continue to market, publish, distribute, and/or sell
21 Plaintiff and other Class member’s personal information so that final injunctive relief
22 or corresponding declaratory relief for the Class is appropriate.

23 **CAUSES OF ACTION**

24 42. Plaintiff alleges the following violations, causes of action, and requests
25 for relief and damages below, individually and on behalf of each Class to the extent
26 permitted or required by applicable law in the alternative.

COUNT ONE

VIOLATIONS OF THE FAIR CREDIT REPORTING ACT

43. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein, and alleges Count One on behalf of herself, the Report Class, and the Request Class.

44. The Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681 *et seq.*, was enacted in order to give consumers fair and equitable protections with regard to the confidentiality, accuracy, and proper use of their consumer information. 15 U.S.C. § 1681(a).

45. The FCRA defines “consumer report” as “any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer’s eligibility for credit or insurance to be used primarily for personal, family or household purposes; employment purposes; or any other purpose authorized under [15 U.S.C. § 1681b].” 15 U.S.C. § 1681a(d)(1). Spokeo assembles information bearing on credit, personal characteristics and mode of living, including *inter alia* data on “economic health,” “wealth level,” and “estimated home value” which third-party purchasers use to make decisions regarding employment, credit worthiness, and as defined for purposes of a “consumer report.” 15 U.S.C. § 1681a(d)(1). Therefore, the information Spokeo assembles, evaluates, markets, publishes, distributes, and/or sells is a “consumer report” as defined by the FRCA.

46. The FCRA defines “consumer reporting agency” as “any person which, for monetary fees, dues, or on a cooperative nonprofit basis regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purposes of furnishing consumer reports to third-parties, and which uses any means or facility of interstate

1 commerce for the purpose of preparing or furnishing consumer reports.” 15 U.S.C. §
2 1681a(f). Spokeo assembles consumer reports for third-parties who pay fees or dues
3 to access said credit information and is therefore a “consumer reporting agency” as
4 defined by the FRCA.

5 47. Spokeo further is a “nationwide specialty consumer reporting agency” as
6 defined by the FCRA because it “compiles and maintains files on consumers on a
7 nationwide basis relating to... residential or tenant history” under the “household”
8 subject heading on each consumer report. 15 U.S.C. § 1681a(w)(2).

9 48. The FCRA defines “consumer” as “an individual.” 15 U.S.C. §
10 1681a(c). Plaintiff and other Class members are “consumers” as defined and
11 construed under the FRCA. 15 U.S.C. § 1681a(c).

12 49. 15 U.S.C. § 1681e(a) of the FCRA requires “that prospective users of the
13 information identify themselves, certify the purposes for which the information is
14 sought, and certify that the information will be used for no other purpose” than a
15 purpose listed under Section 1681b. 15 U.S.C. § 1681e(a). Upon information and
16 belief, Spokeo sold Plaintiff and other Report Class members’ profiles without
17 requiring such certifications. *See, e.g., supra* ¶ 26.

18 50. Spokeo, as a consumer reporting agency that furnishes consumer reports
19 to third-parties, does not properly “maintain reasonable procedures designed to avoid
20 violations of §1681(c) of this title and to limit the furnishing of consumer reports” of
21 Plaintiff and the Report Class “to the purposes listed under [15 U.S.C. § 1681b],” as
22 required by the FCRA. 15 U.S.C. § 1681e(a).

23 51. 15 U.S.C. § 1681b of the FCRA sets forth various permissible purposes
24 for the furnishing of consumer reports, which Spokeo does not comply with. For
25 example, Spokeo failed to furnish its consumer reports of Plaintiff and the Report
26 Class “in accordance with the written instructions of the consumer to whom it
27 relates” since it failed to get consumer permission before assembling, evaluating,
28 marketing, publishing, distributing, and/or selling consumer reports online. 15

1 U.S.C. § 1681b(a)(2).

2 52. Additionally, pursuant to the FCRA a consumer reporting agency cannot
3 furnish a consumer report to a third-party who intends to use that report for
4 employment purposes unless the third-party certifies to the consumer reporting
5 agency that the third-party will “not procure a consumer report, or cause a consumer
6 report to be procured, for employment purposes with respect to any consumer, unless
7 (i) a clear and conspicuous disclosure has been made in writing to the consumer at
8 any time before the report is procured or caused to be procured, in a document that
9 consists solely of the disclosure, that a consumer report may be obtained for
10 employment purposes; and (ii) the consumer has authorized in writing.” 15 U.S.C. §
11 1681b(1)(A); 1681b(2)(A). Spokeo knew, continues to know, and/or should know
12 that its consumer reports are being used by third-parties for employment purposes yet
13 Spokeo failed, and continues to fail, to obtain the required certification to ensure that
14 the proper disclosures and written authorization are being obtained from consumers.
15 *See supra* ¶¶ 18-20.

16 53. The FCRA also requires “any person that maintains or otherwise
17 possesses consumer information ... derived from consumer reports for a business
18 purpose to properly dispose of any such information or compilation.” 15 U.S.C. §
19 1681w(a)(1). In connection with this requirement, 16 C.F.R. §§ 682.1 to 682.5
20 require, in relevant part: “Any person who maintains or otherwise possesses
21 consumer information for a business purpose must properly dispose of such
22 information by taking reasonable measures to protect against unauthorized access to
23 or use of the information in connection with its disposal.” “Dispose” is defined to
24 include “the transfer of any medium, including computer equipment, upon which
25 consumer information is stored.” Spokeo failed to comply with the disposal rule by
26 not taking reasonable measures to protect against unauthorized access of Plaintiff and
27 other Report Class members’ consumer information, and is therefore in violation of
28 the FCRA. 15 U.S.C § 1681w(a)(1). For example, a Fox news report points out that

1 Spokeo “must be a goldmine for private investigators, stalkers and other unsavory
2 people.” Available at [http://www.q13fox.com/news/kcpq-03302010-](http://www.q13fox.com/news/kcpq-03302010-spokeo,0,2538243.story)
3 [spokeo,0,2538243.story](http://www.q13fox.com/news/kcpq-03302010-spokeo,0,2538243.story) (reported on March 3, 2010).

4 54. The FCRA further requires consumer reporting agencies to provide
5 proper notice to any person “to whom a consumer report is provided by the agency
6 [of]... such person’s responsibilities under [the FCRA].” 15 U.S.C. §
7 1681e(d)(1)(B). Spokeo allowed unfettered access to its consumer reports of Plaintiff
8 and the Report Class and did not provide adequate or required notice to any person
9 who viewed and/or purchased such reports in violation of the FCRA. 15 U.S.C. §
10 1681e(d)(1)(B). Moreover, at relevant times Spokeo’s website did not and/or does
11 not require recipients of freely available consumer reports of Plaintiff and the Report
12 Class (and who also purchase their profiles) to view such a notice; and Spokeo
13 encourages consumer reports to be utilized for purposes prohibited by the FCRA.
14 *E.g.*, ¶¶ 12-13 and 18-20 above.

15 55. The FCRA further requires consumer reporting agencies to provide
16 notice to any person “to whom a consumer report is provided by the agency [of]...
17 such person’s responsibilities under [the FCRA].” 15 U.S.C. § 1681e(d)(1)(B).
18 Spokeo allowed unfettered access to its consumer reports of Plaintiff and the Report
19 Class and did not provide adequate or required notice to any person who purchased
20 such reports in violation of the FCRA. 15 U.S.C. § 1681e(d)(1)(B). For example,
21 free profiles and/or profile information available on Spokeo.com contain no statement
22 properly warning third-parties against improper use of a consumer report or which is
23 otherwise consistent with Section 1681e(d)(1)(B). *See supra* ¶¶ 12-13. Third-parties
24 are therefore able to see personal information concerning Plaintiff and other Report
25 Class members, including inaccurate information, without first agreeing to or
26 otherwise viewing a proper FRCA disclosure in violation of 15 U.S.C. §
27 1681e(d)(1)(B).

28 56. Further, Spokeo, as a nationwide specialty reporting agency, was

1 required, at a minimum, to provide consumers with a toll-free telephone number to
2 make requests for consumer reports. 15 U.S.C. § 1681(j)(1)(C)(i). During relevant
3 times, Spokeo has failed to provide a toll-free telephone number on its website or
4 elsewhere for Plaintiff and other consumers to make requests for consumer reports.

5 57. As a nationwide specialty consumer reporting agency, Spokeo is also
6 required to disclose, free of charge, “all information in the consumer’s file” upon the
7 request of the consumer to whom that file relates. 15 U.S.C. §§ 1681(j) and
8 1681g(a)(1); 16 CFR § 610.3. Once every twelve (12) months, a consumer is entitled
9 to request and receive from a CRA a “free annual disclosure,” which shall consist of
10 “all information in the consumer’s file at the time of the request.” 15 U.S.C. §§
11 1681g(a), 1681j(a)(1)(C).

12 58. Contrary to the FCRA and relevant regulations, as set forth more fully
13 above, Spokeo has prohibited Plaintiff and other Class members from accessing their
14 own profiles (or their profiles which Spokeo sells to the public) without paying a
15 significant fee – *i.e.* the same fees to access their profiles that any requester would
16 have to pay, and the same fees that Spokeo would charge them when allowing them
17 to easily assess another consumer’s profiles – and likewise Spokeo did not and does
18 not honor requests like Plaintiff’s to view a copy of their own profiles. 15 U.S.C. §§
19 1681(j), 1681g(a)(1); 16 CFR § 610.3.

20 59. Spokeo thus does not provide consumers with a free annual disclosure as
21 required by such FCRA provisions, but rather, blatantly violates the FCRA by
22 misrepresenting, to third-party visitors to its website looking to purchase profiles, that
23 it does not offer consumer reports, and therefore, purports not to be governed or
24 regulated by the FCRA.

25 60. Furthermore, 15 U.S.C. § 1681(g)(2) requires Spokeo to disclose the
26 sources of information used to create a consumer’s file. 15 U.S.C. § 1681g(a)(3) also
27 requires consumer reporting agencies to disclose the identify of each person or entity
28 who procured a consumer’s report for employment purposes within 2 years preceding

1 the date a consumer requests such information or for consumer reports used for any
2 other purpose within 1 year preceding the date a consumer requests said information.

3 61. Despite requests by Plaintiff and other Request Class members, Spokeo
4 has refused to provide them with the sources of information used to create their
5 consumer reports, or with the identities of any person who procured their reports for
6 any purpose within the relevant time period, in violation of the FCRA. *See supra* ¶¶
7 30-31.

8 62. Spokeo has not granted Plaintiff's above-described requests, pursuant to
9 the FCRA, for her information and profiles, the sources of said information, and the
10 identities of persons who have procured their profiles (*see* ¶¶ 30-31 above). Such
11 conduct and practices perpetrated by the Spokeo violates the FCRA, *e.g.*, 15 U.S.C.
12 §§ 1681(j) and 1681g(a)(1); 16 CFR § 610.3.

13 63. Spokeo willfully fails to maintain a policy or procedure to grant
14 consumer requests for a copy of their profiles without charge, a list of the sources
15 used to create said profiles, and a list of the identities of any recipients of a
16 consumer's profile. Such conduct is reckless and willful as it clearly violates the
17 FCRA and prevents consumers from seeing what information Spokeo is widely
18 disseminating to employers, creditors, insurers, friends, and foes at large.

19 64. Pursuant to 15 U.S.C. § 1681g(c)(2), consumer reporting agencies such
20 as Spokeo are required to provide consumers a summary of rights with every
21 disclosure. Spokeo failed to provide Plaintiff and other Class members such a
22 summary of rights and is therefore in violation of the FCRA.

23 65. Spokeo is aware of its obligations under the FCRA; Spokeo's website
24 makes cryptic, generalized or buried references to the FCRA which have not been
25 and are not viewable at all when furnishing personal information or until after third-
26 parties have already viewed extensive personal information furnished by Spokeo,
27 including inaccurate information, about Plaintiff and other Report Class members. In
28 fact, Spokeo brazenly promotes its website as a means to access information for

1 purposes prohibited by the FCRA, and has failed to meet its obligations under the
2 FCRA, as more fully set forth herein and above (*e.g.*, ¶¶ 9-34).

3 66. Spokeo, by its above described conduct, has willfully and recklessly
4 failed to comply with the FCRA.

5 67. As a result of Spokeo's above described willful violations of the FCRA,
6 Plaintiff and other Class members were damaged and are entitled to statutory
7 damages as allowed by the FCRA, and/or punitive damages thereon, in addition to
8 attorney's fees and costs. 15 U.S.C. §§ 1681n.

9 68. Alternatively, Spokeo committed the above-described violations of the
10 FCRA negligently, and Plaintiff and other members of the Class are entitled to actual
11 damages, attorney's fees and costs, and appropriate equitable relief as allowed by the
12 FCRA, 15 U.S.C. § 1681(o).

13 **COUNT TWO**

14 **RESTITUTION FOR UNJUST ENRICHMENT**

15 69. Plaintiff repeats and realleges the preceding allegations as if fully set
16 forth herein, and alleges Count Two on behalf of herself and the Class.

17 70. Spokeo has knowingly received and retained benefits from Plaintiff and
18 other Class members under circumstances that would render it unjust to allow Spokeo
19 to retain such benefits.

20 71. Spokeo was unjustly enriched at the expense of Plaintiff and other Class
21 members by collecting, assembling, marketing, publishing and selling their unique
22 identities and profiles, including false, inaccurate and unverified information, without
23 obtaining their consent, as set forth above.

24 72. Upon information and belief, the sheer number of profiles created and
25 maintained by Spokeo inures to Spokeo's benefit and allows Spokeo to garner
26 increased capital, value, internet visitors, and profits to the detriment of Plaintiff and
27 other Class members.

28 73. Spokeo profits at the expense of Plaintiff and other Class members from

1 the sale of consumer reports in violation of the FCRA.

2 74. Spokeo receives sizable revenues, not only from sales of Spokeo profiles
3 of Plaintiff and other members of the Class, but also from website advertisements
4 attributable to and dependent upon the marketing, sale and dissemination of Plaintiff
5 and other Class member profiles as described above.

6 75. Spokeo's above-described conduct violates fundamental principles of
7 equity and justice.

8 76. As a result, Plaintiff and other Class members are entitled to
9 disgorgement and restitution of Spokeo revenues, profits and monies received from
10 Spokeo's marketing, publication and/or sale of Plaintiff and the Class members'
11 personal information and consumer reports.

12 **COUNT THREE**

13 **INJUNCTIVE RELIEF**

14 **VIOLATION OF THE ILLINOIS DECEPTIVE TRADE PRACTICES ACT**

15 77. Plaintiff repeats and realleges the preceding allegations as if fully set
16 forth herein, and alleges Count Three on behalf of herself and the Report Subclass.

17 78. Spokeo has engaged in and continues to engage in conduct that is
18 deceptive within the meaning of the Illinois Deceptive Trade Practices Act, 815 ILCS
19 § 510/1 *et seq.* ("IDTPA") by causing a "likelihood of confusion or of
20 misunderstanding as to the source, sponsorship, approval, or certification of goods or
21 services." 815 ILCS § 510/2(2). Spokeo engaged in, and continues to engage in,
22 conduct that is deceptive by marketing, publishing and/or selling false or inaccurate
23 information about Plaintiff and other Report Subclass members that is likely to be
24 taken as true.

25 79. Spokeo also engaged in, and continues to engage in, conduct that is
26 deceptive which "similarly creates a likelihood of confusion or misunderstanding" by
27 collecting data about Plaintiff and the Report Subclass from various third-party
28 sources, without authenticating those sources or revealing those sources to third-

1 parties who use its website or to Plaintiff and other Report Subclass members about
2 whom Spokeo continues to make available such profiles, without effectively
3 disclosing the inaccurate nature of such profiles, and by declining to provide Plaintiff
4 and other Report Subclass members with notice that their profiles are being published
5 and made available for sale and/or an opportunity to review their profiles at no
6 charge, as set forth above. IDTPA, 815 ILCS § 510/2(12).

7 80. Spokeo engaged in, and continues to engage in, conduct that is deceptive
8 regardless of whether or not there is “actual confusion or misunderstanding.” *Id.*

9 81. Spokeo engaged in, and continues to engage in, deceptive business
10 practices because it collects, markets, publishes, distributes, and/or sells inaccurate
11 information about Plaintiff and other Report Subclass members with “knowledge of
12 its deceptive character.” IDTPA, 815 ILCS § 510/5(2). For example, Spokeo knows
13 that information it collects, markets, publishes and/or sells is inaccurate, and it knows
14 how to reduce inaccuracies by using an improved algorithm, yet it chooses to market,
15 publish and/or sell profiles with deceptively false information.

16 *E.g.*, [http://newsblogs.chicagotribune.com/the-problem-solver/2010/05/should-i-be-](http://newsblogs.chicagotribune.com/the-problem-solver/2010/05/should-i-be-worried-about-spokeocom.html)
17 [worried-about-spokeocom.html](http://newsblogs.chicagotribune.com/the-problem-solver/2010/05/should-i-be-worried-about-spokeocom.html) (last visited July 29, 2010). Likewise, Spokeo does
18 not at all or adequately advise third-parties, who access and accessed the profiles and
19 personal information available on Spokeo.com about Plaintiff and other Class
20 members, that such profiles and information is, is likely to be, and/or may be
21 inaccurate.

22 82. Spokeo represents that the profiles about Plaintiff and the Report
23 Subclass, which Spokeo publishes and sells, is merely a compilation of information
24 from publicly available sources. In reality, the personal information it publishes
25 about them is substantially false, inaccurate, and misleading, and/or appears to be
26 guesswork. *See supra* ¶¶ 17, 22-25.

27 83. Without being enjoined from continuing its conduct, Spokeo will
28 continue to engage in deceptive business practices regardless of “proof of monetary

1 damage, loss of profits or intent to deceive.” 815 ILCS § 510/3. However, the
2 inaccurate profile that Spokeo publishes and distributes about Plaintiff and other
3 members of the Report Subclass is likely to damage, mislead, deceive and misinform
4 third-parties, to their detriment, including without limitation to the detriment of
5 Plaintiff’s professional career.

6 84. Plaintiff and the Report Subclass are entitled to an injunction preventing
7 Spokeo from continuing to market, publish, and/or sell their personal information in
8 the manner set forth above – *i.e.*, laden with false and inaccurate information, in
9 violation of the FCRA, without knowledge, consent of, notice to and/or free access by
10 Plaintiff and the Report Subclass, without adequate notices or procedures to correct
11 and remove inaccuracies, and without proper disclosure to third-parties of inaccuracy
12 likelihood – as well as a declaration of the parties’ rights, and notice to Plaintiff and
13 the Report Subclass regarding same.

14 85. Plaintiff and the Report Subclass are further entitled to injunctive relief
15 which requires Spokeo to provide them with a listing of third-parties to whom
16 Spokeo furnished their profiles, in order to correct the likelihood of confusion or
17 misunderstanding resulting from dissemination of their profiles, including profiles
18 containing false and inaccurate information.

19 **COUNT FOUR**
20 **DECLARATORY JUDGEMENT AND**
21 **CORRESPONDING INJUNCTIVE RELIEF**
22 **28 U.S.C. §§ 2201, 2202**

23 86. Plaintiff repeats and realleges the preceding allegations as if fully set
24 forth herein, and alleges Count Four on behalf of herself and the Class.

25 87. Spokeo’s practice of collecting, assembling, evaluating, marketing,
26 publishing, distributing and/or selling data including credit information concerning
27 Plaintiff and other Class members constitutes a “consumer report” within the
28 meaning of the FCRA as described above. 15 U.S.C. § 1681a(d)(1).

1 88. Spokeo's practice of collecting, assembling, evaluating, marketing,
2 publishing, distributing, and/or selling consumer reports for third-parties who pay a
3 fee to access said credit information deems Spokeo a "consumer reporting agency" as
4 defined by the FCRA as described above. 15 U.S.C. § 1681a(f).

5 89. Spokeo further is a "nationwide specialty consumer reporting agency" as
6 defined by the FCRA because it "compiles and maintains files on consumers on a
7 nationwide basis relating to... residential or tenant history" under the "household"
8 subject heading of its website. 15 U.S.C. § 1681a(w)(2).

9 90. The FCRA defines "consumer" as "an individual." 15 U.S.C. §
10 1681a(c). Plaintiff and other Class members are "consumers" as defined and
11 construed under the FRCA. *Id.*

12 91. Plaintiff and the Class are entitled to a declaration of the parties' rights
13 and Spokeo's obligations pursuant to the FCRA, including whether Spokeo's conduct
14 violates the FCRA as more fully set forth above.

15 92. Plaintiff and the Report Subclass are also entitled to a declaration of the
16 parties' rights under the IDTPA, including whether or not Spokeo's above-described
17 conduct is deceptive within the meaning of the IDTPA.

18 93. Plaintiff and other Class members and Spokeo have adverse legal
19 interests, and there is a substantial controversy between Plaintiff and other Class
20 members, and Spokeo, to warrant the issuance of a declaratory judgment as to
21 whether Spokeo's mass marketing, publication and/or sale of consumer reports about
22 Plaintiff and the Class violates the FCRA and the IDTPA, and the common law of
23 unjust enrichment.

24 94. As a result of Spokeo's above-described conduct, Plaintiff and the Class
25 are entitled to corresponding injunctive relief, including, for example, an order
26 enjoining Spokeo from continuing to force consumers to pay money in order to
27 access their own profiles; and an order enjoining Spokeo from continuing to dishonor
28 consumer requests to view their own profiles and related information, as set forth

1 above, and/or requiring Spokeo to enact corresponding curative relief.

2 95. Further, Plaintiff and the Class are entitled to corresponding injunctive
3 relief, including an order enjoining Spokeo from continuing to collect, assemble,
4 evaluate, market, publish, distribute and/or sell their personal information in violation
5 of applicable law, as more fully set forth above; and an order establishing a
6 constructive trust, for the benefit of Plaintiff and the Class, consisting of monies
7 received by Spokeo from its wrongful marketing, publication, dissemination and/or
8 sale of their purported personal information.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff, individually and on behalf of all others similarly
11 situated, prays that this Honorable Court enter judgment in favor of Plaintiff and
12 against Spokeo as follows:

- 13 a. Find that Spokeo violated, FCRA, the IDTPA, and the common law as
14 described above;
- 15 b. Declare the rights of the parties, and enjoin Spokeo's above-described
16 illicit conduct, as set forth above;
- 17 c. Award injunctive relief, including an order enjoining Spokeo requiring
18 consumers to pay to view their own respective profiles, consistent with
19 Plaintiff's allegations set forth in detail above;
- 20 d. Award Plaintiff and other Class members statutory and/or punitive
21 damages, and other relief to which Plaintiff and the Class are entitled, as
22 permitted by applicable law; an alternatively award relief in the form of
23 any actual damages.
- 24 e. Award equitable monetary relief, including restitution, to Plaintiff and
25 other members of the Class, require Spokeo to disgorge, for the benefit
26 of Plaintiff and the Class, monies, revenues and profits Spokeo received
27 from its marketing, publication and sale of their profiles and personal
28 information as set forth above; and establish a constructive trust, until

1 further order of the Court, consisting of monies Spokeo improperly
2 collected or received from its above-described illicit conduct;

- 3 f. Find that this case may be properly maintained as a class action, and
4 appoint Plaintiff as Class representative and Plaintiff's counsel as Class
5 counsel;
6 g. Award reasonable attorney's fees and costs as allowed under the FCRA,
7 the IDTPA and applicable law; and
8 h. Award such other further relief as the Court deems just and appropriate.
9

10 Respectfully submitted,

11 Dated: August 16, 2011

PARISH & HAVENS LLP

12
13 By: 

14 David C. Parisi
15 Suzanne Havens Beckman
16 Azita Moradmand
17 Attorneys for JENNIFER
18 PURCELL, individually and on
19 behalf of all others similarly
20 situated
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JURY DEMAND

Plaintiff requests trial by jury of all claims that can be so tried.

Respectfully submitted,

Dated: August 16, 2011

PARISI & HAVENS LLP

By: 

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